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# Examine the Intersection of Human Rights and the Criminal Justice System

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## ABSTRACT

*Human rights activists have been fighting the state's immense might for centuries. Everyone agrees that these human rights represent a growing need for a more civilized world in which every person's inherent worth is recognized and safeguarded. The development of legislation various parts of society have criticized the Supreme Court's defense of human rights, although this criticism is unfounded. actual study. Human rights are not only important in theory, but also have real-world implications for individuals. Denial of human rights would set the setting for political and social unrest, wars between governments, and hostility inside countries. Because "justice delayed is justice denied," access to justice is crucial to living a dignified life. An independent, fair, swift and effective court is the very core of civilization.*

**Keywords:** *criminal justice system, critical analysis, Human rights, Judiciary.*

## I. INTRODUCTION

Human rights are ethical precepts or guidelines for certain behavior standards that are often protected by national and international legislation. Most people believe that these rights are basic and unalienable, meaning that everyone possesses them only by virtue of being human, irrespective of their age, nationality, language, religion, or other characteristics. Equality means that they apply to everyone the same, and universality means that they can be used anywhere, at any time. People think that they need to have humanity, the rule of law, and for people to have to value the human rights of others. The majority of people agree that they can't be taken away unless the right formal steps are taken in certain situations.

The human rights theory has had a big effect on foreign law, as well as on state and global organizations. Governments and nongovernmental organizations operate at the foundation of global public policy. One of the main ideas of the human rights concept is that "if the public discourse of peacetime global society can be said to have a common moral language, it is that of human rights." People have strong opinions about what human rights are, but there is still a lot of debate and question about what they mean and why they exist. There is disagreement

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about which specific rights should be included in the broad meaning of human rights. Some thinkers say that only rights that are generally agreed to be of similar value for everyone should be included. Still, most people think that human rights include many different types of rights, such as the right to a fair hearing, freedom of speech, the right to education, and the right not to be forced to work as a slave.

It has been argued against more than once that human rights are "given by God." It wasn't until after World War II and the Holocaust that many of the main ideas that sparked the human rights movement became public. In 1948, the Universal Declaration of Human Rights was adopted by the UN General Assembly in Paris. This was possible because of these ideas. As opposed to now, people in ancient times did not think that human rights applied to everyone. Many philosophers, including John Locke, Francis Hutcheson, and Jean-Jacques Burlamaqui, wrote about the idea of natural rights. This idea has its roots in the medieval natural law tradition and became popular during the European Enlightenment and in the political talk of the American and French Revolutions, can be linked to the discourse surrounding human rights.

This served as a foundation for the contemporary human rights debates that emerged the second half of the 20th century, perhaps in response to crimes against humanity like war crimes, slavery, torture, and genocide, as well as an understanding of everyone's inherent vulnerability and the need for a just society in order for them to flourish. The goal of the human rights movement in the early 2000s has been to increase political and economic freedoms. Criminal justice is the legal system's response to accusations of criminal activity. Criminal cases are handled by a network of government organizations and ministries. The rehabilitation of prisoners, stopping new crimes, and providing emotional assistance to victims are among the objectives. The police, the district attorney's office, the public defenders' office, the courts, and the correctional facilities make up the core components of the criminal justice system.

#### **(A) Literature Review**

**Bibi, Sughrat et.al (2023).** The criminal justice system is only one area that has been transformed by technological developments. This article examines how criminal law intersects with new technology, examining the difficulties and opportunities these developments provide. It examines the complexity of regulating and modifying legal systems to confront emerging types of criminal activity, including cybercrime, digital surveillance, artificial intelligence, and biometric technology. Ethical dilemmas and privacy issues brought on by technologically influenced criminal legislation are also discussed.

**Maschi, Tina et.al. (2018).** Human rights, social justice, economic justice, and environmental

justice are all important to the Council on Social Work Education should be taught to social workers. According to this article, forensic social work is and has always been a branch of social work that works at the intersection of the legal and judicial systems. There aren't many research on forensic education, however. In order to do this, this study examined the material included in the subjects include social work, law, and social work. On the Internet, many sites were looked through to find US social work schools that are approved by CSWE and offer classes in investigative social work or social work and the law. A total of twenty-two syllabi were found. Upon examining current course outlines, we saw a common thread that linked for investigative social work to be "the pursuit of justice" and to work where the law and political processes meet. It may be one of the most important parts of teaching investigative social work with a focus on human rights and global justice to track how much students have learned about promoting human rights and social, economic, and environmental justice via clinical, transdisciplinary, and policy practice.

**Geiger, Christophe. (2015).** The Research Handbook on Human Rights and Intellectual Property is an all-inclusive guide to the subject of IP law and its relationship to human rights. The book examines the doctrinal and practical consequences of intellectual property law and jurisprudence that pertains to human rights. It is the result of the specialist expertise of over forty eminent academics and practitioners worldwide. The chapters specifically examine how norms from various legal families interact with one another, how human rights contribute to the creation of a fair framework for intellectual property law, how national and regional courts' precedents balance conflicting rights and obligations, and how various human rights relate to the actual exercise of intellectual property rights.

**Lutze, Faith. (2021).** In her presidential address, Dr. Faith Lutze says that if criminal justice and criminology are to remain important fields of study, then theorists, researchers, educators, and practitioners must take responsibility for justice by following human rights principles and working to bring down oppressive systems. First, she stresses how important it is to remember that "the personal is political" and to question the fixed stories that have come to define our work. Second, she says that professionals, the court system, and impoverished communities will all fail if they use the criminal justice system as a first option to deal with social problems. Third, she thinks that harm reduction will fail even if evidence-based practice is very important in the long run because it is embedded within persistent systems of oppression. Finally, she argues that criminology and criminal justice cannot continue to serve their current purposes by relying solely on distributive models of reform. Instead, they must use research, teaching, and practice to combat oppressive structures that violate human rights and maintain power over

marginalized groups.

**Land, Molly et.al (2020).** This article provides an overview of current issues associated with technology and human rights. Decisions involving criminal justice, employment, public service, and financial matters, among others, are increasingly being made using artificial intelligence (AI), which presents serious risks to human rights. Traditional methods of holding wrongdoers responsible are harmed by the manner in which AI diffuses and diminishes blame for misdeeds. Moreover, state and non-state actors have weaponized technology that researchers and practitioners originally believed would democratize human rights fact discovery. They are being used to keep an eye on people and spread false information that makes people less trusting of what they know. To get past these problems, people need to work to defend and improve human rights in the framework of technological innovation. Given the intertwined nature of governmental and corporate behavior in relation to technological innovation, the old divisions between public and private need updating if they are to continue to be useful. The sixteenth volume of the Annual Review of Law and Social Science is scheduled for complete online release on October 13, 2020.

## **II. INDIA'S CRIMINAL JUSTICE SYSTEM AND HUMAN RIGHTS**

Every person is born with some inherent rights known as rights of people. That is to say, Human Rights are the very minimum of protections that every self-determining Indian citizen is entitled to under Indian law, regardless of their background or beliefs. These privileges cannot be given or taken away from an individual. Human rights are abused in every sphere of life, however, and not just by random people but by the same social institutions that were created to protect everyone's rights. Denial of human rights and freedom has far-reaching and tragic consequences. It also leads to social upheaval. Human rights appreciation and protection in the context of a society's criminal processes is an essential indicator of that society's level of development.

A nation's citizens' human rights are defended and secured in large part by the Criminal Justice System is made up of the Police, the Legislature, the Courts, and the Prisons. Innocent individuals are unlawfully imprisoned, police violence occurs in jails and prisons, the internet is blocked at times of political unrest, and so on. Even though the court has often intervened to curb these abuses, the number of these violations of human rights is steadily increasing.

## **III. EVOLUTION OF HUMAN RIGHTS IN INDIA**

The baseline norm is established by There are 10 articles in the International Covenant on Civil

and Political Rights and 9 articles in the Universal Declaration of Human Rights of treatment to which every nation's criminal justice system must adhere. This includes:

- Everyone who is incarcerated should be treated with humanity, that is, with regard for his or her inherent dignity. Art. 21 of the Indian Constitution, which is built on this idea, protects the right to life and personal freedom. Francis Coralie v. Union Territory of Delhi was a very important case for the Supreme Court of India rendered a ruling whereby it determined that the term "life" as stipulated in Article 21 included the concept of "life with human dignity." The execution of arrest, confinement, and expulsion cannot be exercised arbitrarily. According to the Constitution of India, Article 21 provides comparable safeguards by stipulating that individuals cannot be deprived of their life or personal freedom unless in compliance with lawful procedures. Art. 21 of the Indian Constitution, which is built on this idea, protects the right to life and personal freedom. Francis Coralie v. Union Territory of Delhi was a very important case for the Supreme Court of India.
- An individual who is facing criminal charges has the right to a trial that is open to the public, whereby he or she will be given every opportunity to establish their innocence. This fundamental premise underpins Indian criminal law.
- The commission the use of It is not acceptable to use an action or behavior that was not seen as illegal at the time it happened as proof of guilt for any illegal behavior. Article 20(1) of the Indian Constitution says that a person can only be punished for a crime that was recognized as a crime at the time it was committed no harsher punishment may be imposed on him or her than is appropriate for the crime committed.
- No one should have their personal space, family life, or mail opened without a good reason. After the case of Maneka Gandhi, it became abundantly evident that process The need for fairness and reasonableness, as recognized by Article 21 of the Constitution was used by the Supreme Court in Kharak Singh v. State of U.P. Constitution, implies the exclusion of arbitrary intervention.
- In all except the most extreme cases, individuals who have been accused must be kept apart from those who have been found guilty. In a similar vein, minors need to be kept away from adults and given special consideration. People who are thought to be innocent should not be put in the same buildings as people who have been found guilty, the Supreme Court said in Sunil Batra v. Delhi Administration. The Supreme Court of India heard the case of Sheela Barse v. Union of India rendered a decision that incarcerating

child has a dehumanizing impact and is detrimental to their development.

- Rehabilitating criminals into productive members of society is a primary goal of the penal system. There have been some initiatives in this area in the last several years, but there's always room for improvement.

Therefore, Several decisions by the Supreme Court have shown that the Indian Constitution is very important for protecting human rights in line with international standards. Following the rules in the Human Rights Commission Act of 1993, it is required that the Human Rights Commission be set up. Commissions at both the federal and state levels is important for the purpose of conducting thorough investigations into complaints pertaining to human rights violations. abuses and the government's failure to effectively prevent them, and to make recommendations for improving how these laws are enforced.

#### **IV. THE PRESENT STATE OF THE CRIMINAL JUSTICE SYSTEM IN INDIA**

The way we handle crime cases now is often criticized when human rights concerns are discussed at national and international forums because it is antiquated, outdated, and repressive. Not only have domestic human rights advocates, academics, authors, journalists, and criminal justice authorities voiced these concerns, but so have international organizations like Amnesty International and World Watch. Two-thirds The composition of the criminal justice system mostly consists of policies and correctional facilities that often infringe upon human rights and perpetuate injustices, while the court constitutes just one-third of its overall structure, which seeks to preserve and promote human rights (mostly via the highest court), therefore the situation is becoming worse.

Numerous accounts detailing harrowing human rights violations during both the pre- and post-emergency periods have surfaced from local sources. The accumulation of these allegations over time is indicative of systemic problems within the country's criminal justice system. Torture, including rapes and murders that occurred behind bars, is the primary subject of the reports. The reports are critical of actions that are clearly unlawful. Two-thirds of the public see the supreme court and its human rights-oriented justices as liberal bleeding hearts, idealistic utopians, arm-chair theorists, etc. When it comes to police and prisons, however, the judicial system seems to be constantly producing rulings that express concern about the system's failings. Because of this, our criminal justice system is both harmful and therapeutic.

In the criminal justice system, human rights are often violated in the following areas:

- **Crimes:** As a result of changes in economic and political climates, criminal acts have

become more numerous and diverse. The rise of organized crime poses a threat not merely to law enforcement but to the very fabric of civilized society. The connection between organized crime and terrorist groups is a cause for concern. As a result, it endangers national security in general.

- **Police:** Policing in a democratic society is associated with respect for the person by protecting their legal and constitutional rights. However, democracy is at jeopardy when police consistently disrespect the legal rights of individuals and the due process of law. It is usual for a complainant to be treated rudely, indifferently, and humiliatingly at a police station when he goes there to file a complaint. Police often resort to third-degree interrogation techniques, despite widespread recognition that such techniques violate suspects' constitutional rights and are thus illegal. However, this practice persists and is commonplace in police departments.
- **Courts:** The court can only care about and oversee investigations into the specific issues that have been brought before it. It can only rule based on evidence given by law enforcement. Two of the most important principles of In criminal law, a person is thought to be innocent until proven guilty beyond a reasonable doubt, and that 10 guilty people may walk free while one innocent person pays the price. However, there has been growing concern about the reliability of human resources and trial testimony as hostile witnesses have led to several dismissals and failed to bolster the prosecution's case.
- **Prisons:** Human rights are being violated in custodial/correctional facilities all around the world. The press, parliament, and court in India have consistently found fault with the country's jail system. jail overcrowding, the indefinite imprisonment of those awaiting trial, poor living circumstances, a paucity of treatment options, and claims of apathy and even a lack of humanity on the part of jail officials have all garnered significant attention over the years.
- **State:** The country's self-proclaimed defender of human rights is also its largest offender. Coercive procedures, the consolidation The topics under discussion include the concentration of power within the power of the executive body, the state, complaints from civil liberties and human rights campaigners, and the tendency of government officials to be authoritarian, and acts of terrorism perpetrated by extremist groups, among others., are all aspects that are seeping into the machinery of State.

## V. SUGGESTIONS FOR IMPROVING THE CRIMINAL JUSTICE SYSTEM

The quality of forensic science has to rise so that it can fulfill its potential as a tool for advancing



justice. It is possible to throw out scientific evidence if it is found to violate the Evidence Act or other constitutional guidelines. Improving law enforcement and creating police that respect human rights is a shared responsibility of the police, the government, and the public. If the top brass in the police department is really dedicated to reform, a lot may be done to change public opinion and raise professional standards.

In the end, it is up to the profession's internal processes and peer groups to enforce discipline and uphold a code of ethics among its members. Though swift The right to a trial has been widely acknowledged as a basic entitlement, as it serves as a prerequisite for ensuring a just legal procedure in accordance with Article 21, however, the wait in criminal justice is something that happens all the time. As the saying goes, "justice delayed is justice denied." This means that "justice quickly buried is justice expedited." Therefore, it is imperative that the time limitations imposed on investigations, prosecutions, and trials be neither arbitrary nor inflexible. It is advisable to choose a balanced approach that lies between the two polarities.

In order to address and mitigate if human rights are being violated, an official statement should be made. of a coherent governmental policy pertaining to instances when law enforcement infringes upon the Human Rights of those who are under investigation or facing charges. It is essential for governments to provide robust backing for stringent regulatory measures that impose penalties on individuals or entities found to be in violation of human rights. Governments must promptly take steps to address human rights violations. It is essential for states to refrain from evading international scrutiny over human rights matters, while also establishing a comprehensive framework that safeguards People who are suspected of crimes should have their human rights respected at the international, national, and regional levels. strengthened. Each nation must set up a working human rights agency to investigate and remedy abuses.

To keep the rights and liberties of the accused, governments should sign international human rights accords. Human rights infractions should be addressed via a constructive framework of remedies provided by states. Human rights breaches by the accused may be avoided if the relevant investigative, prosecutorial, judicial, and legal resources are made available to him. The work of NGOs in promoting respect for human rights and humanitarian initiatives on a global, national, and regional scale should be recognized and supported by states. It is important for states to support NGOs and other groups working when it comes to human rights.

## **VI. THE ROLE OF THE JUDICIARY IN HUMAN RIGHTS AND CRIMINAL JUSTICE**

Traditional methods of dispensing justice are being abandoned because they are outdated and

cannot keep up with modern culture. The Indian Supreme Court has tackled several cases, such as those involving the undertrials<sup>1</sup> and the Bhagalpur blinding. Since the previous several years, it has taken a more aggressive stance, especially in light of the country's unique socioeconomic circumstances. In reality, there are two distinct ways in which the highest court in each democracy operates: either it takes an active stance or it accepts and works to enhance its passive position.

### ***Human Rights and Judicial Activism***

- In this context, it is proposed that the safeguarding of human rights and individual liberty necessitates The concept of judicial activism and dynamic constitutional interpretation include instances when the judiciary engages in the creation of laws and policies, so extending beyond their traditional role of interpreting the constitution. To prevent members of marginalized groups from being excluded from the political process or the benefits of a democratic government, the court plays a critical role in this context.
- The Supreme Court said in The case is Kailash Gour and others v. State of Assam.<sup>37</sup>, "The accused person is thought to be innocent." One of the main ideas behind crime law is the presumption of innocence unless guilt is established. It's also established that no amount of suspicion can ever replace evidence. The distance between the accuser and the accused might be rather great. may be the culprit in this case? and? must be the one responsible for the crime. which the prosecution must overcome by presenting valid and convincing evidence. As a fundamental human right, the presumption of innocent cannot be erased.
- Security Forces Torture Having the right to life or freedom also means having the right to be treated with respect and decency. Protection against torture or physical attack by State agents is built in. When people are tortured, beaten, or even killed while in police custody, it calls into doubt the legitimacy of the legal system as a whole. Recently, there have been more cases of torture and abuse in prison. This may be because powerful people are abusing police resources to settle personal disagreements. The High Court has consistently rendered decisions that disapprove of the use of disproportionate force or acts of torture by law enforcement personnel in relation to individuals who are either suspected of committing a crime, defendants, or those in pretrial detention. These are the rules that the Supreme Court made in the case of Raghbir Singh v. State of Haryana.
- Correctional Institutional Violence According to In the case of D.K. Basu v. State of West Bengal<sup>45</sup>, the Supreme Court's ruling brings attention to the problem of violence

in prisons, specifically cases of torture and death that happen there. The power of the executive branch must come from the legislative branch because violent acts like these hurt the rule of law and limited by legal frameworks.

- 171 cases of handcuffing In *Prem Shankar v. Delhi Administration*, the Supreme Court ruled that handcuffs are "inhuman and, as a result, unfair, too cruel, and at first, random." Articles 14, 19, and 21 of the Constitution are said to be broken by a law that requires all prisoners to be handcuffed on their way from jail to court for their trial if they are suspected of a crime that can't be released on bail and is punished by more than three years in prison.
- Problems in the Prison System The Supreme Court made it clear that a person in imprisonment retains all of his basic rights, including the right to life, whether he is serving time for a crime or is awaiting trial. A prisoner still has certain constitutional protections after being found guilty and sentenced to incarceration in line with the law.<sup>50</sup> Inmates have the same access to Articles 14, 19, and 21 as free people have. Fundamental Rights are not lost outside the prison gates.<sup>51</sup> Article 21 of the Constitution does not guarantee a prisoner his or her right to a fair trial. The Prison Manual and other legislation provide appropriate limitations on this Fundamental Right.
- Requirements for conducting a polygraph (lie detector) examination on a suspect The scope and character of the 'self-incrimination' are sufficiently broad to include the utterances that were hoped to be elicited. All intentional actions that provide evidence are shielded from self-incrimination, as ruled by the Supreme Court. This would have prevented any questioning from happening. The concept of 'self-incrimination' encompasses the act of conveying information that is derived from the personal knowledge of the individual providing such information, as articulated in the legal case of *Kathi Kalu v. State of Bombay*<sup>56</sup>. This legal precedent upholds the fundamental principle of human autonomy in the context of self-incrimination.
- Criminal Cases: Onus of Proof When determining who has what the burden of proof is, the courts make a difference between Clause 14 and Articles 19 and 21. The Supreme Court of India has addressed this issue at length in *Deena v. Union of India*.<sup>64</sup> Also, "the burden is never on the petitioner to prove that the procedure prescribed by law which deprives him of life or personal liberty is unjust, unfair, or unreasonable," as stated in Article 21.

***Reduction of Procedural Requirements in Public Interest Cases to Safeguard the Rights of***

***People Arrested or Under Trial.***

The concept of "epistolary jurisdiction" best exemplifies the adaptability of PIL process. Following the lead of the US Supreme Court, a prisoner's postcard was considered a petition and the justices said that any citizen with good intentions might influence their decision by writing to them. Invoking its authority under Article 32 of the Constitution, The Court has taken pleas in the form of letters and telegrams. A new age of constitutional justice is on the horizon for the people of India. As a developing nation, India has to give special attention to issues of social equity and poverty law. The most important thing to remember about PIL is it goes against the common belief of locus standi, which says that the person whose legal rights are at stake is the one who has them have been infringed may seek remedy in court. The notion of locus standi has been given fresh life, and with it, the whole idea of fair access to the legal system. The Court has stated that the locus standi rule needs to be relaxed. It has taken the position that, given the unique socioeconomic circumstances of the nation, where significant poverty, illiteracy, and ignorance obstruct and impeded accessibility to the judicial process, it would be It would not be fair to closely follow the usual rule of standing, which says that only someone who has been harmed can change the outcome of a case. This would mean that poor and disadvantaged people in the community would no longer be able to get justice.

***Examples of Human Rights Issues Judicial Activism***

Between 8:30 p.m. on March 1, 2002, and 11:00 a.m. on March 2, 2002, a large and enraged mob set fire to the Best Bakery in Baroda in *Zahira Habibullah Sheikh and Others v. State of Gujrat and Others* Others<sup>110</sup> case (often referred to as the "Best Bakery case"). There were casualties from the incident. June 2002 saw the filing of charges as a consequence of the investigation. Before appearing in court, a purported eyewitness subsequently withdrew remarks made during investigations. The trial court found none of the defendants guilty in its 27-6-2003 decision. In her testimony before the National Human Rights Commission, Zahira, the petitioner, said that powerful politicians had threatened to keep her from testifying against the defendants. The August 8, 2003, verdict of acquittal was appealed by the State of Gujarat. The Gujarat High Court confirmed the acquittal of the relevant defendants. The National Human Rights Commission then sent a special leave plea to the Supreme Court, which it finally decided to look at as a writ case under Article 32. You and another group called Citizens for Justice and Peace filed an appeal against the Gujarat High Court's decision, *Zahira*. This case showed that if proof is tainted and a person is found not guilty, then the law says that the person was not truly innocent, a biased investigation, an unprincipled prosecution, a cursory trial, or the testimony of witnesses who were harassed or terrorized.

## VII. CONCLUSION

The development of legislation several people have criticized the Supreme Court's protection of human rights, yet their objection is unfounded since no real research. The theory implies that safeguarding an individual who has been suspected or accused would harm society as a whole by promoting criminal behavior and making it more difficult to uncover criminals. Unfortunately, our nation lacks crime, sociology, law, or scientific research? Because of this, our critique of the way the courts have interpreted and applied the law is frequently based on deeply held beliefs and misconceptions rather than on factual or sociological data. Legal and social studies in several subfields of criminal law are needed to assist judges in the difficult task of formulating rules that protect the innocent while also serving the public good. Criminal law enforcement activities that violate human rights can be found and fixed measures taken if the National Human Rights Commission is not used simply as a PR tool to deflect international criticism of human rights conditions. Social, economic, and political justice are included in the preamble of the Indian Constitution, demonstrating the widespread desire for these ideas. People who have been hurt physically, mentally, or financially go to court with a lot of hope to get their problems fixed. The court system has a duty to provide its customers with timely and affordable service without sacrificing the integrity of the judicial process or basic principles of fairness, equality, and impartiality.

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